

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEAN-CHRISTOPHE LIEBESKIND, et al.,

No. C-07-3962 MMC

Plaintiffs,

**ORDER DENYING STIPULATION TO
TRANSFER FUNDS**

v.

ALLIANCE TITLE CO.,

Defendant

ALLIANCE TITLE CO.,

Cross-complainant,

v.

JEAN-CHRISTOPHE LIEBESKIND, et al.,

Cross-defendants

The Court is in receipt of the parties' "Stipulation to Transfer Funds to United States District Court," filed November 16, 2007.

In their stipulation, the parties to the above-titled interpleader action request that the Court order the Clerk of the Superior Court of California, in and for the County of San Francisco, to transfer to the Clerk of the District Court certain funds currently on deposit with the Clerk of the Superior Court, specifically, \$285,048.05 deposited therewith by

1 Alliance Title Co. ("ATC"), as well as any interest that has accumulated on said sum.

2 The parties cite no authority providing that a district court has the power to order a
 3 state court to transfer funds that were, at the time of the deposit, properly deposited
 4 therewith. Even assuming, arguendo, the Court has such power, the parties fail to indicate
 5 why it is necessary for the Court to issue such an order. "[D]eposit of the disputed funds in
 6 the [federal district] court's registry . . . is not a jurisdictional requirement to [R]ule 22(1)
 7 interpleader." Gelfgren v. Republic Nat'l Life Ins. Co., 680 F. 2d 79, 81-82 (9th Cir. 1982).¹
 8 Moreover, the Court could, upon determination of the ownership of the disputed funds,
 9 direct ATC to retrieve the funds from the Clerk of the Superior Court and disburse the funds
 10 to the proper owner(s), or make such other order as it deems necessary to effectuate
 11 proper distribution. Further, to the extent the parties may wish, for convenience or other
 12 reasons, to have the funds on deposit with the Clerk of the District Court, there is no
 13 showing they have sought to withdraw the funds and that the Clerk of the Superior Court
 14 has refused to allow such withdrawal.

15 Accordingly, the stipulation is hereby DENIED.

16 **IT IS SO ORDERED.**

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 18 Dated: November 19, 2007

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 MAXINE M. CHESNEY
 United States District Judge

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 26 ¹The instant action, upon removal, proceeds under Rule 22, and the Court has
 27 jurisdiction over the action in light of ATC's allegation that the Internal Revenue Service has
 28 a claim to the funds, or some portion thereof. See Morongo Band of Mission Indians v.
California State Board of Equalization, 858 F. 2d 1376, 1384 (9th Cir. 1988) (holding district
 court has jurisdiction over interpleader action under Rule 22 "if the cause(s) of action
 anticipated by the plaintiff's suit would arise under federal law").